§ 985.104

submitted for the PHA under the Single Audit Act indicates that the auditor is unable to provide an opinion as to whether the PHA's financial statements are presented fairly in all material respects in conformity with generally accepted accounting principals, or an opinion that the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole, the PHA will automatically be given an overall performance rating of troubled and the PHA will be subject to the requirements at § 985, 107.

(3) When HUD modifies or withholds a rating for any reason, it shall explain in writing to the PHA the reasons for the modification or for withholding the rating.

[63 FR 48555, Sept. 10, 1998, as amended at 64 FR 40498, July 26, 1999]

§985.104 PHA right of appeal of overall rating.

An PHA may appeal its overall performance rating to HUD by providing justification of the reasons for its appeal. An appeal made to a HUD hub or program center or to the HUD Troubled Agency Recovery Center and denied may be further appealed to the Assistant Secretary.

§ 985.105 HUD SEMAP responsibilities.

- (a) Annual review. HUD shall assess each PHA's performance under SEMAP annually and shall assign each PHA a SEMAP score and overall performance rating.
- (b) Notification to PHA. No later than 120 calendar days after the PHA's fiscal year end, HUD shall notify each PHA in writing of its rating on each SEMAP indicator, of its overall SEMAP score and of its overall performance rating (high performer, standard, troubled). The HUD notification letter shall identify and require correction of any SEMAP deficiencies (indicator rating of zero) within 45 calendar days from date of HUD notice.
- (c) On-site confirmatory review. HUD may conduct an on-site confirmatory review to verify the PHA certification and the HUD rating under any indicator.

- (d) Changing rating from troubled. HUD must conduct an on-site confirmatory review of an PHA's performance before changing any annual overall performance rating from troubled to standard or high performer.
- (e) *Appeals*. HUD must review, consider and provide a final written determination to an PHA on its appeal of its overall performance rating.
- (f) Corrective action plans. HUD must review the adequacy and monitor implementation of PHA corrective action plans submitted under §985.106(c) or §985.107(c) and provide technical assistance to help the PHA improve program management. If an PHA is assigned an overall performance rating of troubled, the PHA's corrective action plan must be approved in writing by HUD.

§ 985.106 Required actions for SEMAP deficiencies.

- (a) When the PHA receives the HUD notification of its SEMAP rating, an PHA must correct any SEMAP deficiency (indicator rating of zero) within 45 calendar days from date of HUD notice.
- (b) The PHA must send a written report to HUD describing its correction of any identified SEMAP deficiency.
- (c) If an PHA fails to correct a SEMAP deficiency within 45 calendar days as required, HUD may then require the PHA to prepare and submit a corrective action plan for the deficiency within 30 calendar days from the date of HUD notice.

(Information collection requirements in this section have been approved by the Office of Management and Budget under control number 2577–0215)

§ 985.107 Required actions for PHA with troubled performance rating.

- (a) Required on-site review. Upon assigning an overall performance rating of troubled, HUD must conduct an onsite review of PHA program management to assess the magnitude and seriousness of the PHA's noncompliance with performance requirements.
- (b) *HUD written report*. HUD must provide the PHA a written report of its on-site review containing HUD findings of program management deficiencies,

the apparent reasons for the deficiencies, and recommendations for improvement.

- (c) PHA corrective action plan. Upon receipt of the HUD written report on its on-site review, the PHA must write a corrective action plan and submit it to HUD for approval. The corrective action plan must:
 - (1) Specify goals to be achieved;
- (2) Identify obstacles to goal achievement and ways to eliminate or avoid them:
- (3) Identify resources that will be used or sought to achieve goals;
- (4) Identify an PHA staff person with lead responsibility for completing each goal;
- (5) Identify key tasks to reach each goal;
- (6) Specify time frames for achievement of each goal, including intermediate time frames to complete each key task; and
- (7) Provide for regular evaluation of progress toward improvement.
- (8) Be signed by the PHA board of commissioners chairperson and by the PHA executive director. If the PHA is a unit of local government or a state, the corrective action plan must be signed by the Section 8 program director and by the chief executive officer of the unit of government or his or her designee.
- (d) Monitoring. The PHA and HUD must monitor the PHA's implementation of its corrective action plan to ensure performance targets are met.
- (e) Use of administrative fee reserve prohibited. Any PHA assigned an overall performance rating of troubled may not use any part of the administrative fee reserve for other housing purposes (see 24 CFR 982.155(b)).
- (f) Upgrading poor performance rating. HUD shall change an PHA's overall performance rating from troubled to standard or high performer if HUD determines that a change in the rating is warranted because of improved PHA performance and an improved SEMAP score

(Information collection requirements in this section have been approved by the Office of Management and Budget under control number 2577-0215)

§985.108 SEMAP records.

HUD shall maintain SEMAP files, including certifications, notifications, appeals, corrective action plans, and related correspondence for at least 3 years.

(Information collection requirements in this section have been approved by the Office of Management and Budget under control number 2577-0215)

§ 985.109 Default under the Annual Contributions Contract (ACC).

HUD may determine that an PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC.

Subpart C—Physical Assessment Component [Reserved]

PART 990—THE PUBLIC HOUSING OPERATING FUND PROGRAM

Subpart A—The Operating Fund Formula

Sec.

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